

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

JERMAINE ALLEN

§
§
§
§
§

CRIMINAL NO. 1:03CR98-03 LG-JMR

**ORDER GRANTING MOTION FOR RETROACTIVE APPLICATION
OF SENTENCING GUIDELINES TO CRACK COCAINE OFFENSE**

The Court considers this case pursuant to its authority under 18 U.S.C. § 3582(c)(2) and Federal Rule of Criminal Procedure 43(b)(4). The U.S. Sentencing Commission has reduced guideline offense levels for cocaine base cases, and has made the reductions retroactive to previously-sentenced defendants. Defendant was previously sentenced in 2004 to 262 months based on a criminal history category of III and offense level of 37. The resulting guideline range was 262 to 327 months imprisonment. Had the 2007 guideline amendments been available to the Court at the time of the original sentencing, an offense level of 35 would have been applied, and the guideline range would have been 210 to 262 months.

In 2006, Defendant was granted a three level reduction on the government's Rule 35(b) motion, reducing the total offense level to 34 and the guideline range to 188 to 235. A reduced sentence of 188 months was imposed. The Defendant asks that he now be granted the two level reduction he is eligible for because of the retroactive application of the crack offense guidelines. This would result in an offense level of 32 and a guideline range of 151 to 188 months. The Court finds this request to be well-taken. Defendant will be reduced to a term of imprisonment of 151 months.

IT IS THEREFORE ORDERED AND ADJUDGED that the Defendant's Motion [87]

for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense pursuant to 18 U.S.C. § 3582 is **GRANTED**.

IT IS FURTHER ORDERED AND ADJUDGED that Defendant's sentence is reduced from 188 months to **151** months imprisonment. All other terms and provisions of the original judgment remain in effect.

IT IS FURTHER ORDERED AND ADJUDGED that the Clerk of Court shall immediately transmit a copy of this order to the Bureau of Prisons.

SO ORDERED AND ADJUDGED this the 2nd day of September, 2009.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE